

36 CC NI ACT / 14332/2026 SHUBHAM HOUSING FINANCE LTD Vs. ASHOK PATHAK / ()

30.07.2026

Fresh complaint case received by way of assignment through e-filing. Let it be checked and registered.

Present: Ms. Deepika Upadhyay,, Ld. Counsel for complainant. (Through VC)

In view of the judgment ***Sanjabij Tari v. Kishore S. Borcar & Anr. (Cr. Appeal No. 1755 of 2010)*** Hon'ble Supreme Court held that issuance of pre-cognizance summons to the accused is not required in cases under Section 138 of the Negotiable Instruments Act."

Submissions on behalf of complainant heard. Record perused.

The present complaint is filed for the offence punishable u/s 138 Negotiable Instruments Act, 1881. Prima facie, the complaint appears to have been made within the period of limitation and falls under the territorial jurisdiction of this court. On the basis of averments contained in the complaint, an offence u/s 138 NI Act appears to have been committed. In the considered opinion of this court, prima facie, there is sufficient material available on record to proceed further. I hereby take cognizance of offence **u/s 138 NI Act**.

Following the law laid down by the Hon'ble Supreme Court in ***AC Narayanan v. State of Maharashtra & Anr. (2014) 11 SCC 790***, complaint, affidavit of evidence, and annexed documents considered. Inquiry under Section 202 Cr.PC conducted. In the concerned opinion of the court, there are sufficient ground for proceeding against the accused in the present matter.

Accordingly, issue summons to accused **Ashok Pathak**, on filing of PF within 30 days, through RC/speed post/WhatsApp/email, returnable for NDOH. In case premises are found to be locked, Process Server is directed to affix the summons at some conspicuous part of the premises.

In terms of the guidelines of the Hon'ble Supreme Court passed in ***Sanjabij Tari v. Kishore S. Borcar & Anr. (Cr. Appeal No. 1755 of 2010)***, let the following endorsement be made on the summons:-

(a) *If the accused pays the cheque amount before recording of his evidence (namely defence evidence), then the Trial Court may allow compounding of the offence without imposing any cost or penalty on the accused.*

(b) *If the accused makes the payment of the cheque amount post the recording of his evidence but prior to the pronouncement of judgment by the Trial Court, the Magistrate may allow compounding of the offence on payment of additional 5% of the cheque amount with the Legal Services Authority or such other Authority as the Court deems fit.*

(c) *Similarly, if the payment of the cheque amount is made before the Sessions Court or a High Court in Revision or Appeal, such Court may compound the offence on the condition that the accused pays 7.5% of the cheque amount by way of costs.*

(d) *Finally, if the cheque amount is tendered before this Court, the figure would increase to 10% of the cheque amount.*

Put for appearance of accused/ framing of notice/further proceedings on **10.12.2026**.

(Anshul Agnihotri)
JMFC NI Act -11 (South)
Saket Courts, New Delhi/30.07.2026